

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14208, of Shell Oil Co., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5101.41 to modify an existing gasoline service station previously approved by the Board in Application No. 8833 to construct a self-service gasoline station and convenience store in a C-1 District at premises 3701 12th Street, N.E., (Square 3926, Lot 62).

HEARING DATE: November 14, 1984

DECISION DATE: December 5, 1984

FINDINGS OF FACT:

1. The subject property is located at the northeast corner of the intersection of 12th and Otis Streets and is known as premises 3701 12th Street, N.E. It is zoned C-1.
2. The subject site is a corner lot with 150 feet of frontage on both 12th and Otis Streets. The site is square and contains 22,500 square feet of lot area. The topography of the site rises from sidewalk level for a grade difference of approximately twenty-five feet to the east and ten to twelve feet to the north.
3. The subject property is currently improved with a one-story structure previously occupied by the Shell Oil Co. as a gasoline service station pursuant to BZA Order No. 8833, dated September 16, 1966. The building is presently vacant and boarded up.
4. Amoco Oil Co. the contract-purchaser of the site, proposes to raze the existing building and construct a self-service gasoline station and convenience store on the site.
5. The C-1 District in which the subject property is located fronts on both sides of 12th Street, N.E. and is bounded by Monroe Street on the south and Randolph Street on the north. The C-1 strip is part of a larger commercial area along 12th Street, N.E., the southern boundary of which is Rhode Island Avenue, N.E. and the northern boundary of which is formed by Randolph Street and Michigan Avenue, N.E. On the southeast corner of 12th and Otis Streets there is a grocery store. South along 12th Street there are a variety of commercial uses including a carry-out, convenience stores, clothing stores, offices, and other retail

uses. To the west of the property, across 12th Street, there is a former Exxon gasoline station which is now used as a repair garage.

6. Square 3926 is split zoned C-1 and R-1-B. The C-1 zone is along the 12th Street portion of the square and has a depth ranging from approximately 100 to 150 feet. Adjacent to the northern boundary of the site there is an apartment house in the C-1 District. There is a substantial grade difference between the subject site and the apartment house which places the apartment house at a higher elevation. Adjacent to the eastern boundary of the site is an apartment house in the R-1-B District which fronts on Oakview Terrace. The apartment house is sited at a higher elevation than the gasoline station site.

7. The proposed convenience store is a matter-of-right use in the C-1 District and is not subject to BZA approval.

8. The proposed modification of an existing gasoline station is permitted subject to Board approval pursuant to the provisions of Paragraph 5101.41 of the Zoning Regulations. That paragraph provides that the Board must determine that:

- A. The station shall not be located within 25 feet of residence district unless separated therefrom by a street or alley;
- B. The operation of the use will not create dangerous or other objectionable traffic conditions; and
- C. The Board may impose requirements pertaining to design, appearance, screening, lighting, or such other requirement as it shall deem necessary to protect adjacent or nearby property.

9. The proposed gasoline station will consist of a centrally located kiosk building and four pump islands under a thirty-two by ninety-four foot canopy. The kiosk building will house a cashier/attendants booth and the convenience store. The kiosk structure will measure approximately sixteen by thirty-six feet. Approximately 320 square feet of the area of the kiosk will be devoted to the convenience store use.

10. No vehicular entrance or exit is connected with the street at points closer than twenty-five feet to any residential district. Two existing curb cuts on 12th Street and one curb cut on Otis Street will be utilized. A proposed new curb cut on Otis Street has been eliminated from the plans and Amoco proposes to pave and landscape the area which had been proposed for the new curb cut.

11. There is presently a large landscaped area along the northern and eastern boundaries of the site which buffers the adjacent residential uses. The buffer area contains large evergreen and deciduous trees but the area is overgrown with weeds and undergrowth. Amoco proposes to clean up the landscape buffer area and provide additional plantings in that area. Amoco will also provide additional plantings to the landscaped area along 12th Street and will landscape the area originally proposed for a new curb cut on Otis Street. The grade difference between the subject site and the adjacent residential uses and the heavy tree cover will help to absorb any sounds and visual affects from the station.

12. The subject site abuts an R-1-B District on the east and is not separated from that residential district by a street or alley. The proposed gas station improvements will be located seventy-five feet from the eastern lot line. The nearest existing structure in the R-1-B District to the east of the site is further buffered from the gas station use by the grade difference and landscaping at the eastern portion of the subject lot. As proposed, there will be an open green space in excess of the twenty-five feet required by the Zoning Commission between the gas station use and the adjacent residential district.

13. To the north of the subject site is an apartment building located in the C-1 District. The proposed gas station will be approximately thirty-five feet from the northern lot line. Residential properties to the south are separated from the subject site by the Otis Street right-of-way.

14. The proposed modifications will not create any dangerous or otherwise objectionable traffic conditions. The gasoline station is located along 12th Street, N.E. which is classified as a minor arterial by the D.C. Department of Public Works. Patrons of the station will be drawn from vehicles already in the stream of traffic. The large area of the site provides for ample on-site vehicular circulation and safe pedestrian movement. The orientation of the four pump islands, all of which are parallel to Otis Street, N.E. will direct traffic away from the cashier's building. Pedestrians who might wish to enter the building to purchase items will be protected from automobile traffic because of the direction of the traffic flow and because of a four foot sidewalk around the building.

15. Lighting under the canopy area will be directed down to the general dispensing area and therefore confined to the site. There will also be security lights attached to poles at the rear of the site which will be confined to the site. Additional lights will be erected in the driveway

areas for safety purposes and will be confined to the site. The only lighting on the fascia of the canopy will be on the side which faces 12th Street.

16. The proposed facility will offer twenty-four hour, self-service gasoline, convenience foods, soft drinks, and cigarettes. Vehicular repairs will not be offered at the subject site. There will be no grease pits or hoists.

17. The D.C. Department of Public Works (DPW) by memorandum, dated October 26, 1984, found that the location of the proposed gasoline station adequately protects the surrounding residential areas and that the driveways are a minimum of twenty-five feet from street intersections as required by Article 74. The DPW made the following recommendations:

- A. No new curb cut should be provided on Otis Street to protect the residential character of the area. Major traffic access to the site should be from 12th Street, and the existing curb cuts should be utilized.
- B. Additional landscaping should be provided along the Otis Street frontage to provide screening for nearby residential properties to the southeast.
- C. All lighting should be confined to the lower levels and directed toward the surface of the lot to prevent glare into the surrounding residences.
- D. All construction and design elements within public space should be coordinated with the DPW and costs for such elements should be assumed by the developer.

18. The Office of Planning, by memorandum dated November 17, 1984, recommended that the subject application be approved subject to the conditions recommended by the Department of Public Works and the submission of a landscape plan containing a planting schedule to demonstrate the screening of the station from nearby residential uses. The Office of Planning was of the opinion that, subject to the recommended conditions, the proposed modification of the subject gas station can be achieved in a manner consistent within the intent and purpose of Sub-section 8207.2 and the criteria of Paragraph 5101.41.

19. The Board notes that the contract purchaser has proposed to eliminate the additional curb cut originally proposed for the Otis Street frontage as recommended by the Department of Public Works and Office of Planning. The Board further notes that the landscape plan submitted for

the record is adequate to meet the conditions requested by the Office of Planning and the Department of Public Works.

20. Advisory Neighborhood Commission 5A made no recommendation on the subject application.

21. A Single Member District Commissioner from ANC 5A appeared at the public hearing in opposition to the subject application. The SMD Commissioner is also the President of the Brookland Neighborhood Civic Association, Inc. The opposition was based on the following:

- A. The convenience store is unnecessary because the area is already served by two drug stores and a 7-11 and another mini-market is proposed to open in the immediate area.
- B. The area is presently served by four gas stations. Therefore, the proposed station is not needed.
- C. The self-service nature of the proposed station will attract motorists and increase the existing heavy traffic volume on 12th Street.
- D. Nearby apartment buildings will be adversely affected because some units will face the station and will be exposed to the glare of lights and noise from customers and outside microphones, and rodents will be attracted to the dumpster on the subject site.
- E. The proposed station will not benefit the community economically nor add to the tax base.

22. A representative of the Northeast Local Development Corporation (LDC) and the 12th Street Merchants Association and a representative of the Brookland Community Cooperative Association appeared at the public hearing in opposition to the application. The opposition testified that the proposed use was inconsistent with the current status of the area and the development plans of the LDC and other groups in the area. It was their opinion that the site should be developed with a grocery store, parking, laundromat or other neighborhood retail use.

23. The record contains four letters primarily in opposition to the establishment of the convenience store aspect of the proposed use.

24. In addressing the concerns raised by the Single Member District representative and the opposition, the Board finds as follows:

- A. The establishment of the food store is not at issue before the Board since that use is permitted as a matter-of-right in the C-1 District.
- B. The number of food shops, drug stores and other gas stations is not a factor for the Board's consideration in its determination of whether the applicant meets the requirements for a special exception as set forth in Paragraph 5101.41 of the Zoning Regulations.
- C. The Board finds on the basis of the applicant's testimony and the DPW report that the proposed use will have no adverse impact on traffic conditions.
- D. Existing and proposed landscaping will serve to buffer adjacent residential uses from the gasoline station operation. The applicant's proposed lighting will be directed down toward the site. Noise will be minimized due to the buffer afforded by the landscaping and by locating the cashier's booth in the interior of the building.
- E. The reopening of the now vacant gasoline station will add to the District's tax base by generating additional sales taxes on the sale of gasoline and the other products to be sold at the station, income taxes as a result of providing employment and an increase in property taxes.
- F. The economic development plan is not binding upon property owners in the plan area. Such property owners have the right to develop their property in accordance with the existing zoning. The Zoning Regulations specifically permit the establishment or enlargement of gasoline stations in the C-1 District subject to approval by the Board.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. The granting of such a special exception requires a showing through substantial evidence that the proposed use complies the requirements of Paragraph 5101.41 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met the burden of proof.

The proposed use will satisfy the applicable requirements of Paragraph 5101.41, including the provisions of Article 74. The subject site abuts residentially zoned property. However, the proposed use is in excess of twenty-five feet from all residentially zoned land or residential uses.

The operation of the use will not create dangerous or objectionable traffic conditions. The proposed use is designed so as to minimize adverse impacts on adjoining property through location, screening and design. All driveways are located more than twenty-five feet from the nearest intersection as measured from the intersection of curb lines extended. There are no grease pits or hoists provided.


The Board further concludes that the granting of the subject application will be in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property.

Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 3-0 (William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 FEB 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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